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Appl. No. 10/810,904
Amdt. dated October 4, 2006
Reply to Office Action of July 7, 2006

PATENTREMARKS/ARGUMENTSThe Invention

The invention relates to polypeptides having PhzO activity which are encoded by nucleic acids of defined structure.

Status of the Claims

Claims 8 and 9 are rejected under 35 U.S.C §112, First Paragraph.

Amendments to the Claims

Claims 8 and 9 are amended to expedite prosecution of the application. No new matter is added.

Support for the Claim Amendments

Support for the amendment to Claim 8(c) wherein a nucleic acid having about 95% sequence identity with SEQ ID NO:1 is recited, is found e.g., at paragraph 116 of the specification. Support for the amendment to claim 8(c), wherein a nucleic acid encoding a polypeptide having 95% sequence identity to with SEQ ID NO:2 is recited, is found e.g., at paragraph 127 of the specification. Support for the amendment to claim 9(b), wherein a polypeptide having an amino acid sequence with about 95% sequence identity with SEQ ID NO:2 is recited, is found e.g., at paragraph 134, line 4 of the specification. No new matter is added.

Allowable Subject Matter

The Examiner indicates claims 8(a), claim 8(b), claim 8(e) limited to high stringency, and claim 9(a) constitute allowable subject matter. Additionally, the Examiner indicates that claims to 95% sequence identity also constitute allowable subject matter.

Response to Rejections Under 35 U.S.C §112 First Paragraph, Enablement

Claims 8 and 9 are rejected under 35 U.S.C §112 First Paragraph for alleged failure to meet the enablement requirement.

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PATENT

Without acquiescing on the merits and solely in order to facilitate examination of the application, the Applicants have amended the claims as follows. Applicants have amended claim 8(c) to recite a nucleic acid sequence having at least 95% nucleotide sequence identity with SEQ ID NO:1 from nucleotide 89 through nucleotide 1564. Claim 8(d) is amended to recite a nucleic acid sequence encoding a polypeptide having an amino acid sequence which has at least 95% sequence identity with SEQ ID NO:2. Claim 8(e) is amended to recite a nucleic acid sequence which hybridizes under high stringency conditions with the nucleotide sequence of SEQ ID NO:1 from nucleotide 89 through nucleotide 1564. Claim 8(f) is deleted. Finally, claim 9(b) is amended to recite a polypeptide having an amino acid sequence which has at least 95% identity with amino acids 1 to 491 of SEQ ID NO:2.

In summary, Applicants believe that the disclosure by the present application is sufficiently enabling for a person of ordinary skill in the art to practice the invention and that no undue experimentation is required. Accordingly, the Applicants respectfully request that the rejection for inadequate enablement be reconsidered and withdrawn.

CONCLUSION

In view of the foregoing, Applicants believe all claims now pending in this Application are in condition for allowance. The issuance of a formal Notice of Allowance at an early date is respectfully requested.

If the Examiner believes a telephone conference would expedite prosecution of this application, please telephone the undersigned at 510-559-6066.

Respectfully submitted,


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